

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
PECOS DIVISION**

BAILEY BURGESS,  
*Plaintiff,*

v.

EL COSMICO, LLC, AND  
BUNKHOUSE GROUP, LLC,  
*Defendant.*

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CIVIL ACTION NO. 4:20-cv-41

**NOTICE OF REMOVAL**

Defendant El Cosmico, LLC removes this action from the District Court of Travis County, Texas, to the United States District Court for the Western District of Texas, Pecos Division. Removal is on the following grounds:

**STATEMENT OF THE CASE**

On April 27, 2020, Plaintiff commenced this action by filing Plaintiff's Original Petition with the 201st Judicial District Court of Travis County, Texas, asserting employment claims. A copy of Plaintiff's Original Petition is attached as Attachment A. The action was assigned Cause No. D-IGN-20-002281.

**VENUE**

Venue lies in the Western District of Texas, Pecos Division, because the Plaintiff was employed in this judicial district and division. *See* 28 U.S.C. § 1441(a).

**REMOVAL IS APPROPRIATE BASED ON DIVERSITY JURISDICTION**

This Court has diversity jurisdiction over the state court action pursuant to 28 U.S.C. § 1332 because it is a civil action between citizens of different States, and the amount in controversy exceeds the sum of \$75,000.00, exclusive of costs and interest.

Plaintiff has pleaded that she is domiciled in Jefferson County, Alabama and is therefore not a citizen of the State of Texas.

Defendant El Cosmico, LLC is a domestic limited liability corporation organized under the laws of State of Texas with a principle place of business is 802 S Highland Ave, Marfa, TX 79843. Its sole member is Elizabeth Lambert, who is a citizen of Texas.

Defendant Bunkhouse Group, LLC (“Bunkhouse”) consents to this removal. Bunkhouse is a domestic limited liability corporation organized under the laws of State of Texas with a principle place of business is 221 W. 6<sup>th</sup> Street, #2000, Austin, TX, 78701. Bunkhouse’s members are Gregory Marchbanks and William Gernstein, who are citizens of Texas.

Complete diversity exists between the parties.

Plaintiff states in her Petition, paragraph 8, that she is seeking monetary relief greater than \$200,000, but no more than \$1,000,000.

By her own admission, therefore, Plaintiff seeks recovery of an amount in excess of \$75,000.00, exclusive of costs and interest.

#### **TIMELY**

Pursuant to 28 U.S.C. § 1446(b), a defendant must file a notice of removal within 30 days of receipt of the plaintiff’s first pleading, motion, or other paper from which it may be ascertained that the case has become removable. Defendant was served with Plaintiff’s Original Petition on May 5, 2020. *See* Attachments A and B. This notice of removal is filed within 30 days of receipt of the Original Petition and therefore is timely.

#### **NOTICE OF REMOVAL GIVEN TO STATE COURT**

A Notice of Removal to Federal Court is being filed in the 201<sup>st</sup> Judicial District Court, Travis County, Texas on the date of this filing with the U.S. District Court for the Western

District, Pecos Division. A copy of the Notice provided to the state court is attached as Attachment C.

**JURY DEMAND**

Plaintiff has demanded a jury in the underlying state court action.

WHEREFORE, PREMISES CONSIDERED, Defendant El Cosmico, LLC prays that the above cause of action now pending against it in the 201st Judicial District Court of Travis County, Texas, and bearing Cause No. D-1GN-20-002281 will be removed to this Court.

DATED: May 26, 2020.

Respectfully submitted,

/s/ Carolyn Russell

Carolyn Russell

Texas Bar No. 24003913

OGLETREE, DEAKINS, NASH, SMOAK  
& STEWART, P.C.

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**ATTORNEY-IN-CHARGE  
FOR DEFENDANTS**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the above was forwarded on the 26th day of May 2020, pursuant to the Federal Rules of Civil Procedure:

Rebecca C. Eisenbrey  
Christopher J. Willett  
Equal Justice Center  
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Austin, TX 78704  
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[cwillett@equaljusticecenter.org](mailto:cwillett@equaljusticecenter.org)

/s/Carolyn Russell

Carolyn Russell

ATTACHMENTS

Plaintiff's Original Petition	A
Copy of the State Court Docket Sheet	B
Copy of Notice provided to State Court	C